

**BERNALILLO COUNTY, NEW MEXICO LOCAL
EMERGENCY PLANNING COMMITTEE (LEPC)
BY-LAWS OF THE LEPC**

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ARTICLE I

SECTION 1. Name

The name of the organization shall be "Albuquerque/Bernalillo County Local Emergency Planning Committee", hereinafter referred to as the "LEPC".

SECTION 2. Purpose

The purpose of the LEPC shall be:

- To participate in carrying out for Albuquerque/Bernalillo County, those responsibilities required of the LEPC pursuant to Public Law-99-499, Superfund Amendments and Reauthorization Act (SARA) of 1986, SARA Title III, and related regulations. Those responsibilities include, but are not limited to:
- Assistance to the local emergency management organization in development, training, and evaluation of the Emergency Operation Center Standard Operating Procedures (EOC SOP) for Albuquerque/Bernalillo County.
- Development of procedures for regulated facilities to provide notification to the LEPC in accordance with SARA Title III.
- Development of procedures for receiving and processing requests from the public under the Community Right-To-Know provision of SARA Title III.
- Provision for public notification of LEPC activities.
- To implement such other and further related activities, as may hereafter be legally required by the Federal government, the State Emergency Response Commission (SERC), or Albuquerque/Bernalillo County.

SECTION 3. Authorization

The SARA of 1986 was enacted by Congress into law on October 17, 1986, and contains SARA Title III: the Emergency Planning and Community Right-To-Know Act of 1986.

In accordance with SARA Title III, the SERC designated Albuquerque/Bernalillo County as a Local Emergency Planning District, and has appointed a Local Emergency Planning Committee for Albuquerque/Bernalillo County. It is composed of elected officials, police, fire, first aid, emergency management, public health professionals, environmental, hospital, and transportation officials, representatives of facilities subject to the emergency planning requirement, community groups, and the media.

The task of the LEPC is to establish rules, notify the public of it's activities, establish procedures for handling public requests for information and to develop and maintain the EOC SOP.

Pursuant to SARA Title III, the LEPC has adopted the by-laws contained herein.

ARTICLE II MEMBERSHIP INFORMATION

SECTION 1. QUALIFICATIONS

Those persons seeking membership shall represent the various professional and community groups, as designated by SARA Title III. Prospective members shall be residents of or conduct business in Albuquerque/Bernalillo County. Prospective members shall be in good standing with the Albuquerque/Bernalillo community.

SECTION 2. VACANCIES

Any vacancy occurring in the Executive Committee by reason of resignation, death, unexcused absences totaling three or more, or disqualification of a member shall be filled by election.

SECTION 3. TERM

Term of elected officers shall be two (2) years (Article IV, Section 2). If an Executive Committee member is elected during mid-term due to a vacancy, the term shall be the remainder of the term of the vacated member.

ARTICLE III ORGANIZATIONAL INFORMATION

SECTION 1. CLASSES OF MEMBERSHIP

The membership of the Albuquerque/Bernalillo County LEPC shall consist of community and industrial members, as defined by SARA Title III (see Article I, Section 3).

Active Members: Those members, organizations, and/or their designees who by their registration status agree to participate in a minimum of 75% of all meetings shall have voting privileges.

Associate Member: Those members, organizations, and/or their designees who by their registration status, choose to participate in all meetings on an at will basis, and do not have voting privileges.

SECTION 2. EXECUTIVE COMMITTEE

This Committee shall be responsible for coordinating activities with all standing and ad hoc subcommittees in addition to other duties deemed necessary by the active members of the LEPC. The Executive Committee shall consist of the following officers:

Chairperson

The Chairperson shall preside at all meetings of the LEPC; shall serve as ex-officio member of all subcommittees, with the empowerment to vote in the event of a tie; and shall perform such duties and acts as necessary to accomplish the purpose of the LEPC. The chairperson shall be empowered to create such other ad hoc subcommittees as necessary to accomplish the goals of the LEPC.

Vice Chairperson

Upon resignation, death, or absence of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson. The Vice Chairperson shall perform such other duties as may be assigned by the Chairperson. The Vice Chairperson shall succeed the Chairperson.

Treasurer

The Treasurer shall maintain financial records of the LEPC's funding and financial transactions and shall prepare or authorize preparation of appropriate tax forms for submittal to local, state, or federal agencies as appropriate.

Emergency Coordinator

The Emergency Coordinator shall have the authority and responsibility for the implementation of the EOC SOP. Incident Command System shall be used at all emergencies to establish command of the incident. Non-elected Executive Committee position.

Secretary

The Secretary shall be the custodian of books, papers, documents and other property of the LEPC. The Secretary shall keep a true record of the proceedings of all meetings of the LEPC.

The Secretary shall be responsible for public notice of meetings. Additionally, the secretary shall attend to the business needs of the LEPC. This will be an appointed position by the Emergency Coordinator.

Legal

The Executive Committee shall appoint as needed a legal representative to assist in legal affairs. This appointee will be a non voting member of the Executive Committee. Meetings: The Chairperson will determine the number of meetings to be held as deemed necessary by the goals of the Committee. A quorum (three (3) members) will be a majority.

SECTION 3. STANDING SUBCOMMITTEES

The standing subcommittees shall include a Chairperson and a Vice-Chairperson.

EOC SOP Review

This subcommittee will work with emergency response organizations within the planning district to maintain and evaluate the EOC SOP for the planning district as required by law. This subcommittee shall review existing federal, state, and local plans for the purpose of coordination.

Finance

This subcommittee will be responsible for supporting recommendations for LEPC funding and will work in conjunction with the Treasurer in maintaining a proper accounting system. From annual subcommittee submittals by September 1, the Finance Subcommittee must prepare and submit an annual budget to the Executive Committee by October 1.

The budget must be approved by the Executive Committee by November 1, for enactment January 1.

Public Information/Education

This subcommittee shall be responsible for the pro-active development of public education, information, training programs, and public relations with affected communities and the public at large.

Regulations and Reporting

This subcommittee shall be responsible for the formulation/implementation of all LEPC policies and procedures concerning: the public's Right-To-Know program; chemical release reporting procedures; trade secret protection procedures; and record keeping and information dissemination procedures.

Transportation

This subcommittee shall be responsible for identifying issues and concerns of the LEPC with regard to transportation of hazardous materials. It shall make recommendations to the appropriate authorities to improve the safe flow of hazardous materials through and within the Albuquerque Metropolitan Planning Area.

Meetings

The standing subcommittee Chairperson will determine the number of meetings to be held, as deemed necessary by the goals of the standing subcommittee. Agendas of minutes of the previous meeting will be distributed in advance to all members of the standing subcommittee and LEPC Secretary.

SECTION 4. AD HOC COMMITTEES

In addition to the standing subcommittees, ad hoc subcommittees shall be appointed, as necessary, to address special needs of the LEPC not addressed by other subcommittees. Ad hoc subcommittee Chairpersons and subordinate members shall be appointed by the LEPC Chairperson.

ARTICLE IV MEETING INFORMATION

SECTION 1. GENERAL INFORMATION

The types of meetings conducted by the LEPC are defined further in the Article. Requirements for all meeting are as follows:

Public notice of all meetings must be posted in accordance with NMSA, 1978, Section 10-15-1 through 10-15-4, of the New Mexico Open Meetings Act. Public notice of LEPC meetings will be announced via local media and will also be posted on appropriate bulletin boards at City/County buildings located at One Civic Plaza, Plaza del Sol, and public libraries. The public is invited to all meetings held by the LEPC.

A quorum shall be defined as a majority of the Executive Committee and a minimum of four (4) other active members for all meetings.

A written notice shall be sent to all LEPC members at least seven (7) days in advance of scheduled meetings with agenda items to be discussed and voted upon.

The LEPC shall meet a minimum of four (4) times per year.

Written minutes for each LEPC meeting must include a summary of decisions and basis for the same as well as a list of attendees.

All meetings will be conducted in accordance with Robert's Rules of Order and by LEPC By-Laws.

SECTION 2. ANNUAL

An annual meeting will be held in January, for the purpose of informing the public of the status of LEPC standing and ad hoc subcommittees and to invite public comment regarding all aspects of the LEPC. Beginning in 2001, the Treasurer will be elected in odd years. The Vice Chair shall be elected annually. (Article VI, Section 8 Elections)

SECTION 3. EMERGENCY

An emergency meeting may be called by any Executive Committee member, if they determine that such emergency meeting is necessary in the interest of the safety and welfare of the public. A minimum of two (2) hours posting is required in any event. An attempt shall be made prior to the meeting to contact all Executive Committee members, by telephone, with contact of at least a majority required to conduct an emergency meeting.

ARTICLE V FISCAL INFORMATION

SECTION 1. GENERAL INFORMATION

The LEPC may receive and disburse funds for the purpose of implementing the Emergency Planning and Community Right-To-Know Act of 1986, in Albuquerque/Bernalillo County.

SECTION 2. FUNDS

Funding sources for the LEPC:

- (1) monies from government entities will be appropriated through the COA who will act as fiscal agent as necessary,
- (2) monies received from non-government entities, including industry and other private donations/fines shall be deposited in the LEPC checking account and the Treasurer will act as the fiscal agent who is responsible for all LEPC reporting.

SECTION 3. EXPENDITURES

Expenditures will be made as funds are available and approved by the Executive Committee with a minimum of two (2) signatures (as designated by the Executive Committee) for disbursement.

SECTION 4. REPORTING

Semi-annual financial reports will be made to the Executive Committee or as requested by the Executive Committee.

SECTION 5 FISCAL YEAR

The fiscal year shall be considered to run from January 1 to December 31.

ARTICLE VI ORGANIZATIONAL RULES INFORMATION

SECTION 1. METHOD OF INITIATING PROPOSED RULEMAKING

Any member of the LEPC may recommend the initiation of proposed rulemaking. Proposed rules shall be submitted in writing and considered by the Executive Committee. If the Executive Committee, by majority vote, approves a proposed rule it shall, thereafter, proceed to publication as provided in the Article.

SECTION 2. ADOPTION OF RULES: PUBLICATION OF PROPOSALS

The LEPC may adopt rules of general application governing the execution of its responsibilities under SARA Title III and related applicable regulations. Any such rules must first be published in proposed form not less than ten (10) days prior to final adoption by the LEPC.

Publication shall be effected through posting of the proposed rule and statement of basis and purpose in the legal notice displayed on the bulletin board of 11510 Sunset Gardens SW. (The proposed rule, together with the statement of basis and purpose, are hereafter referred to as "Notice of Proposed Rulemaking".)

Such notice of proposed rulemaking shall invite written public comment on any aspect of the proposed rules during the ten (10) day period. The LEPC Secretary, or his/her designee, is encouraged, but not required, to publish such notices of the proposed rulemaking in the multi-media.

SECTION 3. METHOD OF ADOPTING FINAL RULES

Following the expiration of the ten (10) day comment period, the Executive Committee shall review all public comments and prepare a statement which responds to comments raised and discusses the basis for any appropriate changes to the proposal.

The Executive Committee shall present this statement to the LEPC. The LEPC shall then vote on the adoption of the proposed rule. If the LEPC acts favorable, the rule shall take effect immediately upon the time and date the notice of adoption is first published (unless the LEPC determines otherwise).

SECTION 4. NOTICE OF ADOPTION

Upon adoption of any rule by the LEPC, the Secretary, or his/her designee, also shall publish the LEPC's response to comments received and any changes to the proposal made in response to such comments. Publication of the final rule shall be in the same manner as that for proposed rules. Nothing herein shall require a specific response to each and every comment received.

SECTION 5. EMERGENCY RULES

In emergency circumstances, to be determined by the LEPC Chairperson and confirmed by a majority of the LEPC in attendance at any emergency meeting, the LEPC may adopt rules without prior public notice and comment, provided that no such rule will remain in effect for more than 90 days.

SECTION 6. AMENDMENTS

These by-laws may be amended by a majority vote of members present and voting at any meeting of the LEPC, provided that any proposed amendments to these by-laws be submitted to the members in writing at least ten (10) days in advance of the meeting (Article VI, Section 2). By-laws and membership list will be submitted as needed to the SERC by hand or certified mail.

SECTION 7. PARLIMENTARY AUTHORITY

The rules contained in Robert's Rules of Order, Newly Revised, shall govern the LEPC in all cases to which they are applicable and in which they are not inconsistent with these by-laws.

SECTION 8. ELECTIONS

Nominations will be made and posted 30 days prior to the election. Election voting will be done at the Annual meeting. The victor will be determined by a simple majority vote, and announced prior to the end of the meeting.

ARTICLE VII REGULATORY RULES INFORMATION

SECTION 1. GENERAL INFORMATION

Unless otherwise stated, all terms herein shall be defined in accordance with definitions provided in SARA Title III, P.L-99-499, and regulations adopted in accordance therewith.

SECTION 2. PUBLIC NOTIFICATION AND GENERAL PARTICIPATION

The LEPC shall publish notice of all meetings on the bulletin board at 11510 Sunset Gardens SW and the LEPC internet site at least 72 hours prior to any such meeting. In emergencies, declared by the Chairperson and confirmed by a majority of the LEPC in attendance at any emergency meeting, the 72-hour notice may be waived in accordance with Section 10-150-1 of the New Mexico Open Meeting Act.

The Albuquerque/Bernalillo County LEPC does not discriminate against any individual for any reason such as: race, color, national origin, sex, religion, age, or disability.

All meetings of the LEPC or any subcommittee thereof shall be open to the public, except under circumstances where the New Mexico Open Meetings Act permits otherwise. The Chairperson shall afford a reasonable period of time at each regular meeting to accept public comments on any aspect of the LEPC's mission or functions.

Not less than once each calendar year, the LEPC will publish in a newspaper of general circulation in the Albuquerque/Bernalillo County area, a notice that written public comment is invited, during a 30-day period, on any aspect of the LEPC's organization, membership, functions, planning process, or mission.

Such notice shall comply in all respects with Section 324(b) of SARA Title III and present a brief explanation of the LEPC's statutory purpose, the location of LEPC minutes and other records, and the name and address of the person designated by the Chairperson to receive written comments.

The LEPC shall review all comments received and shall publish, in the manner described in, Article VI, responses to major issues raised in such public comments. Nothing herein shall require the LEPC to respond to all comments received. However, the LEPC shall acknowledge receipt of such comments.

SECTION 3. PUBLIC PARTICIPATION PLANNING PROCESS

Following the completion of a draft EOC SOP, meeting the requirements for the Community Right to Know for Publications, the LEPC shall:

- publish in at least one (1) newspaper of general circulation in Albuquerque/Bernalillo County notice of the availability of the plan for public inspection and review. Such notice shall appear on at least two (2) occasions no closer than three (3) calendar days apart.
- publish notice, in the manner described in the preceding subsection, of no fewer than two (2) public meetings to accept oral comments on the draft plan and hold such meetings.

- publish notice, in the manner described in the preceding subsection, of no fewer than two (2) public meetings to accept (oral or written) comments on the draft plan for no less than 15 days following the last scheduled public meeting. Such notice shall identify a person designated by the Chairperson to receive such comments.

SECTION 4. PUBLIC ACCESS TO INFORMATION

In accordance with Section 324 of SARA Title III, all information obtained from an owner or operator pursuant to SARA Title III and any requested Tier II form or Material Safety Data Sheet (MSDS), otherwise in possession of the LEPC, shall be made available to the person submitting the request under this section. The only exception shall be any information which the owner or operator has designated as confidential.

All information requested to be photocopied or otherwise made accessible to any member of the public shall be provided at the sole expense of the person making such request. The cost charged to the requestor to provide this information may include photocopying, data processing, staff time, mailing or delivery charges.

Rates shall be set from time to time by the Secretary, with the approval of the Executive Committee. These rates shall be set at a level which enables the LEPC to recover all reasonable expenses associated with processing the request.

Routine Requests for MSDS, Tier II, and Other Non-Confidential Information:

Any person may obtain MSDS, Tier II, or any other non-confidential information in the possession of the LEPC with respect to a certain facility by submitting a written request to the LEPC Secretary.

If the LEPC does not have in its possession the MSDS or Tier II forms, it shall request a submission of the MSDS or Tier II form from the appropriate owner or operator.

The LEPC will only make requests to specific facilities for information that it is required to maintain or collect pursuant to applicable law.

Should the LEPC receive a request for information not addressed in this section, the Secretary shall refer the requestor to the appropriate owner or operator.

SECTION 5. TRADE SECRETS

Except, as provided in this section, all information submitted to the LEPC by facilities pursuant to SARA Title III, shall be public information.

Other than a claim designated in this section, the LEPC will not honor any business confidentiality or Trade Secret Claim. Pursuant to Section 312 and Section 324(a) of SARA Title III, the location of specific chemicals requested to be submitted with Tier II information, shall be maintained as confidential by the LEPC. Provided that a claim of confidentiality is submitted with the information and satisfies all applicable requirements for such claims under SARA Title III and any regulations promulgated pursuant to the same.

Such information shall be exempt from disclosure by the LEPC permanently, or until such time as (1) an authorized governmental agency and, if applicable, a court of competent jurisdiction makes a final determination, following any appeals, that such information is not subject to a valid claim of business confidentiality or Trade Secret and (2) the LEPC receives written notice of such determination.

SECTION 6. DISTRIBUTION OF EOC SOP

One copy of the plan shall be distributed to the following persons or entities as per the categories stated:

MANDATORY DISTRIBUTION AT NO CHARGE TO RECIPIENTS:

- A. SERC
- B. Regional Liaison office, Division of Emergency Management
- C. City/County Emergency Coordinators
- D. Albuquerque/Bernalillo County LEPC Executive Committee and SERC recognized members
- E. One (1) each in the City of Albuquerque's public libraries in the four (4) City quadrants and two (2) each in unincorporated areas of Bernalillo County's public libraries

UPON REQUEST AT NO CHARGE TO RECIPIENTS:

- A. Organizations contributing sections to the plan
- B. Adjacent county LEPC's

UPON REQUEST AND CHARGES PAID IN ADVANCE BY RECIPIENTS:

- A. Other distribution of the plan may be made as copies are available by the Secretary at the sole expense of such individual or organization as outlined in Article V.
- B. Request for copies of the plan from the general public shall be provided of the Albuquerque/Bernalillo County LEPC and through a copy available at the Office of Emergency Management, 11510 Sunset Gardens SW, Albuquerque, New Mexico.

The plan will be reviewed annually by the Albuquerque/Bernalillo County LEPC.

Updates will be provided as they become available.

A list of the distribution of all copies of the plan will be made by the Secretary. As the plan is revised, updates to the plan will be distributed at no cost to the members of the LEPC. Copies of plans identified above will be provided upon written request and at the sole expense of such requestor, as outlined in Article VII, Section 6, of these rules.